

104TH CONGRESS  
2D SESSION

# H. R. 3041

To supplement the Small Reclamation Projects Act of 1956 and to supplement the Federal Reclamation Laws by providing for Federal cooperation in non-Federal projects and for participation by non-Federal agencies in Federal projects.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 1996

Mr. CALVERT introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To supplement the Small Reclamation Projects Act of 1956 and to supplement the Federal Reclamation Laws by providing for Federal cooperation in non-Federal projects and for participation by non-Federal agencies in Federal projects.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Small Reclamation  
6 Water Resources Project Act of 1995”.

1 **SEC. 102. PURPOSE.**

2       The purpose of this title is to encourage Federal,  
3 State, and local participation in the development of  
4 projects under the Federal Reclamation Laws that provide  
5 for total water resources management with emphasis on,  
6 but not limited to, projects that achieve improvements in  
7 the augmentation and management of local water supplies,  
8 conservation of water and energy, fish and wildlife con-  
9 servation, supplemental water for existing supplies, water  
10 quality improvements, flood control, and to provide timely  
11 Federal assistance in the development of similar projects  
12 in the seventeen western reclamation States by non-Fed-  
13 eral organizations. Irrigation shall remain an eligible  
14 project purpose, but shall not be a required purpose for  
15 project proposals.

16 **SEC. 103. DEFINITIONS.**

17       As used in this title:

18           (1) The term “Secretary” means the Secretary  
19       of the Interior.

20           (2) The term “Federal Reclamation Laws”  
21       means the Act of June 17, 1902 (32 Stat. 388), and  
22       Acts amendatory thereof or supplementary thereto.

23           (3) The term “project sponsor” means a State  
24       or a department, agency, or political subdivision  
25       thereof; or a conservancy district, water users’ asso-  
26       ciation, tribal authority, or agency created by inter-

1 state compact or similar organization which has the  
2 capacity to contract with the United States under  
3 the Federal Reclamation Laws.

4 (4) The term “water and energy conservation”  
5 means the preservation, protection, enhancement, or  
6 extension of water or energy resources.

7 (5) The term “fish and wildlife conservation”  
8 means those operational measures, habitat, or phys-  
9 ical features associated with the protection, preser-  
10 vation, enhancement, or recovery of those fish and  
11 wildlife resources that are considered of importance  
12 and interest and which shall include, but not be lim-  
13 ited to, migratory species, threatened or endangered  
14 species as listed, or proposed for listing, under the  
15 Endangered Species Act, or other species, as deter-  
16 mined by the Secretary, to be worthy of consider-  
17 ation under these terms.

18 (6) The term “water quality improvements”  
19 shall mean and involve those operation measures and  
20 physical features associated with—

21 (A) the reclamation and reuse of irrigation  
22 drainage or municipal and industrial return  
23 flows, including wastewater flows;

24 (B) the reclamation, dilution, or control, of  
25 brackish, toxic, or hazardous waters for bene-

1            ficial reuse or protection of other related water,  
 2            land, or environmental resources; or

3            (C) flow augmentation from storage to  
 4            achieve national or State water quality goals.

5            (7) The term “project” means—

6            (A) a single or multipurpose water re-  
 7            source development project; or

8            (B) a project for the rehabilitation, better-  
 9            ment, or retrofit of any existing Federal or non-  
 10          Federal water infrastructure for purposes of  
 11          significant water and energy conservation or  
 12          fish and wildlife conservation.

13          (8) The term “maximum allowable estimated  
 14          Federal share” shall be determined by the Secretary  
 15          using the Bureau of Reclamation composite con-  
 16          struction cost index for January of that year with  
 17          \$30,000,000 as the January 1995 base and shall be  
 18          for any given proposal submitted during any given  
 19          calendar year.

20    **SEC. 104. PROPOSAL FEE.**

21          Any project sponsor applying for assistance under  
 22          this Act shall submit a proposal to the Secretary in such  
 23          form and manner as the Secretary may prescribe. Each  
 24          such proposal shall be accompanied by a payment of  
 25          \$5,000 plus \$1,000 for each \$1,000,000 of the estimated

1 Federal share of project costs, or portion thereof. Fifty  
2 percent of the payment shall accompany the application  
3 and the remaining 50 percent shall be due upon approval  
4 of the project by the Secretary, if approved.

5 **SEC. 105. CONTENTS OF PROPOSAL.**

6 (a) Any project proposal shall set forth a plan and  
7 estimated cost in detail comparable to those included in  
8 preauthorization reports required for a Federal reclama-  
9 tion project. Any such proposal shall have been submitted  
10 for review by the State or States in which the project is  
11 located and shall include a proposed allocation of capital  
12 costs to function such that costs for facilities used for a  
13 single purpose shall be allocated to that purpose and costs  
14 for facilities used for more than one purpose shall be so  
15 allocated among the purposes served such that each pur-  
16 pose will share equitably in the costs of such joint facili-  
17 ties. The costs of means and measures to prevent loss of  
18 and damage to existing fish and wildlife resources shall  
19 be considered as non-Federal project costs and allocated  
20 as may be appropriate among project functions. Such pro-  
21 posal shall also include an investigation of soil characteris-  
22 ties which might result in toxic or hazardous return flows.

23 (b)(1) Each proposal shall include a finding that the  
24 project sponsor already holds or can acquire all lands and  
25 interests in land, except public and other lands and inter-

1 est in land owned by the United States which are within  
2 the administrative jurisdiction of the Secretary and sub-  
3 ject to disposition by the Secretary, and rights, pursuant  
4 to applicable State law, to the use of water necessary for  
5 the successful construction, operation, and maintenance of  
6 the project and that it is ready, able, and willing to finance  
7 otherwise than by loan and grant of Federal funds the  
8 non-Federal portion of the costs of the project, which por-  
9 tion shall include all costs of acquiring lands, interests in  
10 land, and rights to the use of water except as provided  
11 in section 105(b)(2) hereof.

12 (2) The Secretary shall require each project sponsor  
13 to contribute towards the cost of the project, other than  
14 by loan or grant of Federal funds, not less than 25 percent  
15 nor more than 40 percent of the allowable estimated costs  
16 of the project, unless mutually agreed to by the Secretary  
17 and the project sponsor. In determining the amount of the  
18 contribution, the Secretary shall credit toward that  
19 amount the cost of investigations, surveys, engineering,  
20 and other services necessary to the preparation of propos-  
21 als and plans for the project as required by the Secretary,  
22 the costs of lands and rights-of-way acquisition required  
23 for the project, amounts spent by the project sponsor for  
24 construction or acquisition of existing facilities prior to  
25 project approval, and the filing fee required by this Act.

1 In determining the allowable estimated cost of the project,  
2 the Secretary shall not include the amount of grants ac-  
3 corded the organizations under section 106(b).

4 (c) Within nine months from the time the initial loan  
5 application report proposal is submitted to the Secretary,  
6 the Secretary shall make a determination whether the pro-  
7 posal is financially feasible and constitutes a reasonable  
8 risk under the provisions of this Act and either approve  
9 or disapprove the proposal. The Secretary shall promptly  
10 transmit any approved proposals to the Congress. Any Na-  
11 tional Environmental Policy Act documentation for the  
12 project shall be completed prior to Secretarial approval of  
13 the proposal.

14 (d) At the time the Secretary submits a project pro-  
15 posal to the Congress, or at any subsequent time prior  
16 to the completion of construction of the project, the Sec-  
17 retary may increase the amount of the requested loan and/  
18 or grant, subject to the limitations allowed by subsection  
19 (8) of section 103 of this Act, to compensate for increases  
20 in construction costs due to price escalation.

21 (e) No Federal funds may be obligated for Federal  
22 financial participation in any project prior to sixty cal-  
23 endar days not including days on which either the House  
24 of Representatives or the Senate is not in session because  
25 of an adjournment of more than three calendar days to

1 a day certain, from the date on which the Secretary's find-  
2 ings and approval are submitted to the Congress.

3 (f) Title to all project works and facilities constructed  
4 under this Act shall remain in the name of the local  
5 project sponsor.

6 (g) Nothing contained in this Act shall preclude the  
7 making of more than one loan or grant, or combined loan  
8 and grant, to a project sponsor so long as no two such  
9 loans or grants, or combinations thereof, are for the same  
10 project, as herein defined. No loan shall be made for less  
11 than 15 years nor more than 25 years unless agreed to  
12 by both parties.

13 **SEC. 106. CONTRACT TERMS AND CONDITIONS.**

14 Upon approval of any project proposal the Secretary  
15 shall negotiate a contract which shall set out, but shall  
16 not be limited to:

17 (a) The maximum amount of any loan to be  
18 made to the project sponsor and the time and meth-  
19 od of making the same available to the project spon-  
20 sor.

21 (b) The maximum amount of any grant to be  
22 accorded the project sponsor.

23 (c) A plan of repayment by the project sponsor  
24 of: The principal of the loan together with interest  
25 on those features required to bear interest under



1 Federal Reclamation Laws, at a rate determined by  
2 the Secretary of the Treasury as of the beginning of  
3 the fiscal year in which the contract is executed on  
4 the basis of the average market yields on outstand-  
5 ing marketable obligations of the United States with  
6 remaining periods to maturity comparable to the ap-  
7 plicable repayment period of the project, adjusted to  
8 the nearest one-eighth of 1 percent on the  
9 unamortized balance of any portion of the loan: *Pro-*  
10 *vided*, That the Secretary, at his discretion, may re-  
11 duce the interest to not less than one-half the aver-  
12 age market rate as so determined, or to the extent  
13 that he determines that the project sponsor is unable  
14 to secure financing from other sources under reason-  
15 able terms and conditions, and shall include letters  
16 from lenders or other written evidence in support of  
17 any finding of an applicant's inability to secure such  
18 financing in any project proposal transmitted to the  
19 Congress. Loans under these terms may be made for  
20 all costs allocated to commercial irrigation; however,  
21 the Secretary shall reduce the interest to not less  
22 than  $\frac{1}{3}$  the average based on the applicant's average  
23 ability to pay calculations, or further reduce the loan  
24 rate if he finds at his discretion that there are suffi-  
25 cient benefits to approve a reduced loan rate.

1           (d) Such terms and conditions as the Secretary  
2       deems necessary or proper to provide assurance of  
3       and security for prompt repayment and to ensure  
4       achievement of the purposes for which the loan was  
5       made.

6   **SEC. 107. CONTRACT CONFORMITY.**

7       The Secretary may waive the requirements of sub-  
8       sections (a) and (b) of section 105, for any proposal relat-  
9       ing to a project authorized for construction under the Fed-  
10      eral reclamation laws prior to the date of enactment of  
11      this Act if he finds the requirements of such subsections  
12      to be duplicative of, or rendered unnecessary or impossible  
13      by, actions already taken by the United States.

14   **SEC. 108. INFORMATION AVAILABILITY.**

15      Upon request of a project sponsor which has made  
16      or intends to make a proposal under the Act, the head  
17      of any Federal department or agency may make available  
18      to the project sponsor any existing engineering, economic,  
19      hydrologic, or other appropriate information and printed  
20      material that it may have and that will be useful in con-  
21      nection with the planning, design, construction, or oper-  
22      ation and maintenance of the project concerned. The rea-  
23      sonable cost of any plans, specifications, and other  
24      unpublished material furnished by the Secretary pursuant  
25      to this section and the cost of making and administering

1 any provision under this Act shall, to the extent that they  
2 would not be nonreimbursable in the case of a project con-  
3 structed under the Federal Reclamation Laws, be treated  
4 as a loan and covered in the provisions of the contract  
5 entered into under section 106 of this Act unless they are  
6 otherwise paid for by the project sponsor.

7 **SEC. 109. COMPLIANCE WITH FISH AND WILDLIFE COORDI-**  
8 **NATION ACT.**

9 For those projects where the planning and construc-  
10 tion of projects undertaken pursuant to this Act is subject  
11 to the provisions of the Fish and Wildlife Coordination  
12 Act, the cost of such provisions shall be a Federal expense  
13 and the Secretary is authorized, as may be provided in  
14 Appropriation Acts, to transfer to the Fish and Wildlife  
15 Service or to the National Marine Fisheries Service, such  
16 funds as may be necessary to conduct the investigations  
17 required to carry out the purposes of this Act, except that  
18 the Secretary may not use any funds appropriated for the  
19 purposes of projects or programs under the Bureau of  
20 Reclamation.

21 **SEC. 110. RULES AND REGULATIONS.**

22 The Secretary is authorized to make such rules and  
23 regulations as may be necessary or proper in carrying out  
24 the provisions of this Act.

1 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

2 Funds authorized for appropriation under the Small  
3 Reclamation Projects Act (43 U.S.C. 504) shall be avail-  
4 able for the purposes of this Act. To the extent that such  
5 funds are not adequate, there are hereby authorized to be  
6 appropriated to carry out the provisions of this title not  
7 to exceed \$300,000,000 from fiscal year 1998 to fiscal  
8 year 2007. All such appropriations shall remain available  
9 until expended.

10 **TITLE II**

11 **SEC. 201. SHORT TITLE.**

12 This title may be cited as the “Small Reclamation  
13 Water Resources Partnership Program”.

14 **SEC. 202. DEFINITIONS.**

15 As used in this title:

16 (1) The term “Secretary” means the Secretary  
17 of the Interior.

18 (2) The term “Federal Reclamation Laws”  
19 means the Act of June 17, 1902 (32 Stat. 388), and  
20 Acts amendatory thereof or supplementary thereto.

21 (3) The term “project sponsor” means a State  
22 or a department, agency, or political subdivision  
23 thereof; or a conservancy district, irrigation district,  
24 water users’ association, tribal authority, or agency  
25 created by interstate compact or similar organization

1       which has the capacity to contract with the United  
2       States under the Federal Reclamation Laws.

3           (4) The term “project purposes” means certain  
4       Bureau of Reclamation programs of water conserva-  
5       tion, fish and wildlife enhancement, public safety,  
6       public outdoor recreation, environmental education,  
7       archaeological surveys, integrated resource planning,  
8       watershed management, technology transfer, ground-  
9       water management, and research and nonstructural  
10      flood control activities.

11          (5) The term “regional loan officer” means the  
12      Bureau of Reclamation employee assigned respon-  
13      sibility for processing the loan or grant applications  
14      under this program.

15   **SEC. 203. ESTABLISHMENT OF A SMALL GRANT AND LOAN**  
16                           **PROGRAM.**

17      There is hereby established within the Department  
18      of the Interior’s Bureau of Reclamation the Small Rec-  
19      lamation Water Resources Management Partnership Pro-  
20      gram for a small grant and loan program. Grants shall  
21      not exceed \$5,000,000 for any one project and shall be  
22      matched on a 50–50 basis. There are authorized to be ap-  
23      propriated not to exceed \$10,000,000 per year for the pur-  
24      poses of this title for fiscal year 1998 through fiscal year  
25      2002. Loans shall not exceed \$1,500,000 per project.

1 Once work is certified complete by the regional loan offi-  
 2 cer, the loans shall be repaid within a five-year period into  
 3 a revolving loan fund program that shall be established  
 4 in the Department of the Treasury. Money from the re-  
 5 payment of the loans shall be available from the revolving  
 6 loan program fund without further appropriation.

7 **SEC. 204. ACTIVITIES ELIGIBLE UNDER THE SMALL REC-**  
 8 **LAMATION WATER RESOURCES PARTNER-**  
 9 **SHIP.**

10 (a) The following types of activities shall be eligible  
 11 for grant or loan purposes:

12 (1) WATER CONSERVATION.—

13 (A) rehabilitation of existing structures;

14 (B) wastewater reuse systems;

15 (C) groundwater recharge and development  
 16 systems;

17 (D) watershed management programs;

18 (E) water quality improvement projects;

19 (F) conjunctive use projects;

20 (G) metering of systems; and

21 (H) public education.

22 (2) FISH AND WILDLIFE ENHANCEMENT.—

23 (A) fish and wildlife habitat improvement  
 24 programs;

25 (B) grassland/water/wetland areas;

1 (C) stabilization of instream flows; and

2 (D) Federal or State endangered species  
3 habitat protection and enhancement where im-  
4 provement or enhancement activities are within  
5 normal operating criteria.

6 (3) PUBLIC SAFETY.—

7 (A) downstream warning system projects;

8 (B) canal fencing for public safety; and

9 (C) public access facilities.

10 (4) PUBLIC OUTDOOR RECREATION.—

11 (A) replacement, repair, or improvement of  
12 boat ramps, hiking and biking trails, benches,  
13 picnic areas, parking facilities associated with  
14 Federal reclamation projects; and

15 (B) addition of public access facilities.

16 (5) ARCHAEOLOGICAL SURVEYS.—Site clear-  
17 ances.

18 (b) The Secretary may add to this list of activities  
19 as he deems appropriate, except that any such addition  
20 shall not take effect until 60 days after the Secretary pub-  
21 lishes a notice of the proposed addition in the Federal  
22 Register and has notified the Committee on Resources of  
23 the House of Representatives and the Committee on En-  
24 ergy and Natural Resources of the United States Senate

1 in writing of the proposed addition and the reasons there-  
2 for.

3 **SEC. 205. APPLICATION PROCESS.**

4 (a) Each applicant shall submit a Notice of Intent  
5 to the appropriate Regional Director of the United States  
6 Bureau of Reclamation outlining the proposed project and  
7 the public benefits thereof. The Regional Director shall  
8 provide a written response to the applicant within 90 days  
9 of receiving the application either affirming or rejecting  
10 Federal interest in participating in the project.

11 (b) Upon notification of a Federal interest, the appli-  
12 cant shall have the option of proceeding with an appro-  
13 priate loan application giving details of the project and  
14 the associated public benefits.

15 (c) The contents of any project proposal shall include,  
16 but need not be limited to, the following:

17 (1) A resolution by the board of directors of the  
18 qualifying organization stating the total estimated  
19 cost, the amount of the grant or loan requested, the  
20 amount of the local contribution for the grant, and  
21 the project objectives.

22 (2) A summary of the proposal.

23 (3) A brief description of the anticipated effects  
24 of the project on the natural, as well as manmade  
25 environment.



1           (4) Evidence that the applicant has all lands  
2           and water rights needed for the project, or can ob-  
3           tain them.

4           (5) A description of the project plan, including  
5           a general map showing the location of proposed  
6           physical features, sufficient engineering drawings of  
7           major and typical structures, and general standards  
8           for design.

9           (6) A construction schedule, if applicable, with  
10          dates and schedule of Federal funding requirements,  
11          in sufficient detail to permit analysis of the proposed  
12          construction program.

13          (7) A determination of those portions of the  
14          project costs which constitute the Federal grant/loan  
15          amounts and the applicant's local contribution.

16          (d) The cost of any investigations and preparation  
17          of any environmental documentation shall be borne by the  
18          project applicant and any such costs shall be credited as  
19          part of the local cost share for grant funding.

20          (e) The Secretary shall publish on a quarterly basis  
21          in the Federal Register a listing of the activities and total  
22          funding required for work committed under this program.

23       **SEC. 206. TERMS AND CONDITIONS OF PROJECT WORK.**

24          The applicant is solely responsible for planning, con-  
25          structing, operating, and maintaining the project. The of-

1 fice of the Regional Director will examine the plans to de-  
2 termine if the project can reasonably be expected to ac-  
3 complish its purpose. Once approved by the Regional Di-  
4 rector, funding, subject to the availability of appropria-  
5 tions or funds from repayments, shall be provided within  
6 sixty days for the schedule of work within that fiscal year.

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